* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision : February 14, 2007

\+ W.P.(C) 1148/2007

MOHAN LAL VOHRA ..... Petitioner
Through Mr. Amar Khera, Advocate

versus

D.D..A ..... Respondent
Through Mr. Deepak Khadaria and
Ms. Sangeeta Chandra Advocates for DDA

CORAM:
HON'BLE DR. JUSTICE S. MURALIDHAR

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in Digest? Yes

O R D E R

S.Muralidhar, J. (open court)

The prayer in this writ petition is that the petitioner should be restored "possession of plot bearing no.13, Tahirpur Warehousing Area, G T Road, Shahdara, Delhi – 110 032 by issuing original letter of allotment dated 21.2.1969 bearing file No. F-8(6)/69 LSB as also the demand letter or in the alternate to return/re-store to the Petitioner the possession of his original 1,100 sq. yds. plot located at 863, G T Road, Shahdara, Delhi – 110 032."

The central plank of the petitioner's claim is the allotment letter dated 21.2.1969 bearing file No. F-8(6)/69 LSB which the petitioner claims, was handed over to him by the officials of the respondent. No copy of such letter has been produced by the petitioner with this petition. Counsel for the petitioner states that the said copy has been misplaced by the petitioner.

In relation to a similar prayer when the petitioner earlier filed Writ

Petition No. 17285/2005, this Court passed the following order on 7.9.2005:-

> "Learned counsel for the petitioner seeks to withdraw the writ petition as he states that the petitioner is desirous of availing either of the remedy by way of a second appeal or to approach the Lok Adalat. Liberty granted. Dismissed as not pressed."

Pursuant to the above order, the petitioner approached the Permanent Lok Adalat, Delhi Development Authority (DDA), presided over by Justice P.N. Nag. The proceedings dated 21.11.2006 of the PLA have been annexed as Annexure P-3 to this writ petition. The said order which is self explanatory, reads as under:-

> "The case set up by the petitioner is that he is eligible evictee from non-conforming area and was being shifted to conforming area. He has been allotted Plot No. A-13 Jhilmil Industrial Area temporarily and he should be allotted this plot permanently in accordance with the policy of the DDA.
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> The stand taken by the DDA, however, is completely denial. According to the DDA the petitioner has not been allotted any Plot No. A-13 Jhilmil Industrial Area by the DDA and he is not even an eligible evictee from non-conforming area to conforming area. He is not entitled to any plot under the scheme of the DDA. The petitioner is only an encroacher and the DDA is owner of this property and the right, title and interest vests in the DDA and they are being owner of the plot can auction the plot.
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> Both the parties have relied upon the reply filed in paragraph 2 of the written statement filed by the DDA in Civil Court of Shri

P.D. Jarwal, Sub-Judge, Ist class in which the DDA has taken a stand that the firm M/s Parma Nand Kundan Lal were allowed temporary to occupy the plot No. 13 Jhilmil Tahirpur with the condition that the site at non-conforming location at G T Road will have to be vacated immediately. Three days time was given to shift from G.T. Road site, but they failed to shift. Subsequently, the petitioner was asked to vacate the site of temporarily allotted plot vide defendant's letter dated 26.12.1973 but no response had ever been shown by the plaintiff. It may be noticed here that the petitioner claims to be the proprietor of the firm M/s Parma Nand Kundan Lal. According to the DDA this reply helps the DDA as the petitioner has failed to vacate the site, in accordance with the terms and conditions of temporary allotment. The petitioner has brought my attention to interim application filed by the petitioner in the Court of Civil Judge in the case alleging that this plot in dispute was allotted to the petitioner which would be evident from the contents of letter dated 21.2.69 bearing file No. F.8(6)/69 LSB (I).

I asked the DDA to produce this file NO. F.8 (6) 69/LSB (I) but Deputy Director Shri Budh Ram, however, categorically denies that in spite of the thorough search they have not been able to lay down their hand on the file and it appears that this file is non-existent.

Without going into the merits of the case, suffice it to say, there is no meeting ground between the parties. The case is closed as unsettled. However, the petitioner shall be at liberty to approach the appropriate Forum/Court for redressal of his grievance, if he

is so advised."

Thereafter, the present petition has been filed. In support of the writ petition, the learned counsel for the petitioner seeks to rely upon the statements made in the written statement filed by the DDA in the civil suit filed by the petitioner herein in the Court of the Sub Judge, First Class, Delhi. In particular, reference is made to paragraphs 1 and 2 of the written statement, which read as under:-

> "1. Para 1 of the plaint as stated is wrong and is denied. It is submitted that M/s Parma Nand Kundan Lal were allowed temporarily to occupy a plot measuring 600 sq. yds. Bearing No. 13, Jhilmit Tahirpur Warehousing Area, in lieu of the vacation of the premises in their occupation at G.T. Road. The defendant craves leave of this Hon'ble court to refer to the contents of the letter dated 21.2.1969, bearing No. F 3(6)/69/LSB.
>
> 2. Para 2 of the plaint is wrong and is denied. It is denied that the plaintiff vacated the plot at G.T. Road before the receipt of letter dated 21.2.1969 for the representatives of the defendant took possession at the plot at G.T. Road on 21.2.1969. As submitted above M/s Parma Nand Kundan Lal were allowed temporarily to occupy the plot No.13 at Jhilmil Tahirpur with the condition that the site at non-confirming location at G.T. Road will have to be vacated immediately. Three days time was given to shift from G.T. Road site, but they failed to shift. Subsequently the plaintiff was asked to vacate the site of temporarily allotted plot vide defendant' letter dated 26.12.1973 but no response had ever been shown by the plaintiff."

Far from supporting the case of the petitioner, the above paragraphs in fact show that the proprietary firm was allowed only a temporary occupation of the aforementioned property and that the said permission was also conditional upon the said proprietary firm vacating the site at G T Road. It also appears that the suit in which the said written statement was filed was dismissed in default and was never restored. Therefore, the petitioner cannot seek to derive any benefit from the above paragraphs in support of his plea.

It also appears that the petitioner had filed a further Suit No. 88/2002 which was also dismissed on 15.2.2005. It is stated that in the meanwhile, the respondent DDA took possession of the plot in question sometime in February 2004. It is indeed incredible that the petitioner managed to stay on in the plot in question till 2004 when what was purportedly allotted on 21.2.1969 was a conditional temporary occupation of the said plot.

The facts of the case reveal that the petitioner has not been able to demonstrate any right to the plot in question. The prayers in the writ petition cannot be granted. The writ petition is dismissed. The applications also stand dismissed.

Sd/-
S. MURALIDHAR, J

FEBRUARY 14, 2007
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